

Appl. No. 09/862,742
Atty. Docket No. AA-473
Amdt. dated September 30, 2004
Reply to Office Action of July 1, 2004
Customer No. 27752

REMARKS

Claims 1-37 are pending in the present application. Claims 1 and 23 have been amended for clarity. No additional claims fee is believed to be due.

Rejection Under 35 USC 103(a) Over US Pat. No. 6,550,672

in view of US Pat. Publication 2001/0014868

Claims 1-37 have been rejected under 35 USC 103(a) as being unpatentable over US 6,550,672 (Tracy) in view of US 2001/0014868 (Herz). Applicant traverses this rejection given the Office Action fails to establish a *prima facie* case of obviousness.

Independent claims 1 and 23 notably require the following claim limitations:

“collecting personalized consumer data pertaining to a consumer’s fabric care needs and habits”; and

“based on the consumer’s personalized data pertaining to a consumer’s fabric care needs and habits determining a recommendation for one or more fabric care products.”

The Office Action at page 3, lines 5-7 points to Tracy at column 14, lines 10-35 for disclosing the collection of personalized consumer data pertaining to a consumer’s needs and habits. However, as the Office Action concedes, the passage references to a customer’s previous purchases such a charcoal. There is no teaching of a consumer’s fabric care needs and habits. Indeed the Office Action concedes at page 4, lines 16-17 that Tracy does not specifically disclose applicant’s limitations concerning fabric care products.

The Office Action at page 3, lines 12-14 points to Tracy column 14, lines 1-43 lines for disclosing that based on the consumer’s personalized data, determining a recommendation is made for one or more products. The Office Action purports that Tracy references to a customer’s prior purchases history. Applicant clarifies that the phrase “based on consumer’s personalized data” has been amended to “based on the consumer’s personalized data pertaining to a consumer’s fabric care needs and habits” to make clear that the personalized data is not just any “prior purchase” but the kind of personalized data specific to a consumer’s fabric care needs and habits. A closer review of Tracy at column 14, lines 1-43 reveals that the a consumer’s prior purchases record is used for the purpose of reminding the consumer to purchase the associated products or

products usually purchases by the consumer. *See* Tracy at column 14, lines 16-22. Tracy gives the examples of reminding the consumer, upon purchasing hotdogs, whether the consumer needs hotdog buns and mustard. Column 14, lines 22-25. In contrast, the goal of the present invention, per page 2, lines 26-29 of the specification, is giving consumers the ability to customize the purchase of their fabric care products. The present invention attempts to address the need for the methods and apparatuses for assisting consumers in the purchase and use of various fabric care products. Applicants submit the motivation that is found in Tracy is not toward customizing the purchase of fabric care products; but at best, to “remind consumers to purchase other associated products or products usually purchases by the consumer but not currently selected.”

Therefore, Tracy fails to suggest either: (1) collecting personalized consumer data pertaining to a consumer’s fabric care needs and habits”; or (2) and that “based on the consumer’s personalized data pertaining to a consumer’s fabric care needs and habits determining a recommendation for one or more fabric care product.” Tracy also fails to provide any motivation to do so much less with a reasonable expectation of success.

The Office Action at page 5, lines 4-5 cites to Herz as disclosing a client-server system that includes fabric care product such as detergents. The Office Action fails to cite to any specific passages merely referencing “Col. X, lines y-z.” For this reason alone, the Office Action fails to its burden in establishing a *prima facie* case of obviousness.

Nevertheless, in the interest of expediting prosecution, Applicant assumes that the Office Action is referring to page 12, paragraph 156 of Herz. The relevant paragraph states:

Rapid profiling to determine a shoppers attributes is sometimes needed even for shoppers who are not new to the shopping system but have done little shopping of a particular type. A particular group of shoppers may agree on a choice of **laundry detergent**, while splitting fiercely—though consistently—on the subject of beer. To predict the beer preferences, it is necessary to consider subgroups. An established shopper may have a profile that places him clearly in the larger group, but that is not sufficiently complete to determine which subgroup he is in. Thus, when he attempts to buy beer on-line, it may be desirable to ask him a few additional questions about his beer preference, his hometown, or his college fraternity. (Emphasis Added)

In the subject Herz passage the shoppers ALL agree on the choice of laundry detergent. The goal is to profile the group of shoppers that agree on an item and disagree to another item such as beer. There is no motivation to toward customizing the purchase of fabric care products

much less a reasonable expectation of success in doing so. Applicant submits that merely because the term “detergent” is mentioned in the context of a reference that discloses a client-server system, this fact alone does not meet the requisite motivation in establishing a *prima facie* case of obviousness.

The Office Action at page 5, lines 21-22 purports that one of ordinary skill would have been motivated to combine Tracy and Herz to disclose selecting products such as laundry detergents, fabric conditioning composition, etc., for support of the motivation toward customizing the purchase of fabric care products “for the obvious reason that by offering a customer customized products which a shopper would be most likely to buy, a vendor may maximize his profits.” Applicants respectfully submit this analysis is misplaced. Although the motivation to make profits is indeed one that motivates industry to make innovations in general, a proper obvious analysis is be based on what objectively motivates one skilled in the art to toward *inter alia* customizing the purchase of fabric care products. A vague reference to maximizing profits, Applicant submits, fails to meet the Office Action’s duty of establishing a *prima facie* case of obviousness.

In view of the foregoing the, Claims 1-37 are unobvious in view of the cited references.

Conclusion

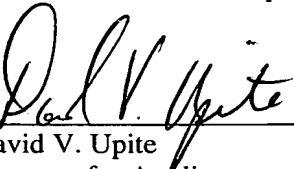
In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 USC § 103(a). Early and favorable action in the case is respectfully requested.

Applicants have made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, Applicants respectfully request reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1-37.

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